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10/804,916	03/19/2004	Atsushi Shibutani	81874.0039	8354

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EXAMINER

MOREHEAD, JOHN H

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2622	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/804,916	Applicant(s) SHIBUTANI, ATSUSHI	
	Examiner John Morehead	Art Unit 2622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 19 March 2004.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-25 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-25 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 19 March 2004 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claim(s) 25 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter as follows. Claim 25 define(s) a **computer program** embodying functional descriptive material. However, the claim does not define a computer-readable medium or memory and is thus non-statutory for that reasons (i.e., "When functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized" - Guidelines Annex IV). That is, the scope of the presently claimed **computer program** can range from paper on which the program is written, to a program simply contemplated and memorized by a person. The examiner suggests amending the claim to embody the program on "computer-readable medium" or equivalent in order to make the claim statutory. Any amendment to the claim should be commensurate with its corresponding disclosure.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Ohnishi US 2002/0197067.

5. Re claim 1, Ohnishi discloses a photographed image recording and reproducing apparatus (fig. 1) comprising: a memory (fig. 1 element 109) for recording plural photographed image data (para 0034 and 0036); a reproducing unit (fig. 1 element 107) for reproducing the photographed image data recorded on the memory (para 0036); a judging unit (fig. 1 element 113) for judging whether or not the photographed image data reproduced by the reproducing unit is one of plural photographed image data which are obtained in a simultaneous photographing operation for obtaining more than one image data simultaneously (para 0038, 0039, 0044); and an advising unit (fig. 1 elements 107 and 119) for giving notice that the photographed image data obtained in the simultaneous photographing operation is reproduced (para 0037-0039, and para 0044 and 0046), when the judging unit determines that one of the plural photographed image data obtained in the simultaneous photographing operation is reproduced by the reproducing unit (fig. 2, para 0043-0048).

Re claim 2, Ohnishi further discloses the photographed image recording and reproducing apparatus according to claim 1, wherein the judging unit judges whether the photographed image data has been recorded on the memory or not, which is

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obtained simultaneously with the photographed image data reproduced by the reproducing unit (fig. 2, para 0039 and 0044).

Re claim 3, Ohnishi further discloses the photographed image recording and reproducing apparatus according to claim 1, wherein the judging unit judges whether or not the photographed image data reproduced by the reproducing unit is still image data obtained in a still-image photographing operation performed during a moving-image photographing operation (fig. 2, para 0043-0044).

Re claim 4, Ohnishi further discloses the photographed image recording and reproducing apparatus according to claim 1, wherein the judging unit judges whether or not the photographed image data reproduced by the reproducing unit is moving image data obtained in a moving-image photographing operation during which a still-image photographing operation is performed (fig. 2 para 0043-0044).

Re claim 5, Ohnishi further discloses the photographed image recording and reproducing apparatus according to claim 1, wherein the memory records information associated with at least one of the plural photographed image data which are obtained in the simultaneous photographing operation, and the judging unit judges whether or not the information associated with the photographed image data reproduced by the reproducing unit has been recorded in the memory (fig. 2 para 0043-0048).

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Re claim 6, Ohnishi further discloses the photographed image recording and reproducing apparatus according to claim 1, wherein the memory records the moving image data obtained in the moving-image photographing operation during which the still-image photographing operation is performed and timing information associated with the moving-image data, which data indicates a time when the still-image photographing operation is performed during the moving-image photographing operation, the reproducing unit reproduces the moving-image data recorded on the memory, and the advising unit gives notice at the time indicated by the timing information associated with the moving-image data and recorded on the memory, while the moving-image data is reproduced by the reproducing unit (para 0046-0048).

Re claim 7, Ohnishi further discloses the photographed image recording and reproducing apparatus according to claim 1, wherein the memory records plural photographed image data which are obtained by the simultaneous photographing operation and associated with each other, and the judging unit judges whether or not photographed image data has been recorded on the memory, which photographed data is associated with the photographed image data that is reproduced by the reproducing unit (figs. 4 and 5, para 0060-0063).

Re claim 8, Ohnishi further discloses the photographed image recording and reproducing apparatus according to claim 1, wherein the advising unit comprises a display for displaying type information indicating a type of other photographed image

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data obtained by the simultaneous photographing operation (the **display unit** allows the user to interact with the photographed image recording and reproducing apparatus shown in fig. 1, figs. 4-12 are examples of the different functions that the user can interact with the camera that are shown on the display screen).

Re claim 9, Ohnishi further discloses the photographed image recording and reproducing apparatus according to claim 1, wherein the advising unit comprises a display for displaying information for designating other photographed image data obtained by the simultaneous photographing operation (claim limitations has already been discussed and rejected, see claim 8, also see figs. 4-6 and 8-10).

Re claim 10, Ohnishi further discloses the photographed image recording and reproducing apparatus according to claim 1, wherein the advising unit comprises a display for displaying other photographed image data obtained by the simultaneous photographing operation, together with the photographed image data reproduced by the reproducing unit (claim limitations have already been discussed and rejected, see claim 9).

Re claim 11, Ohnishi further discloses the photographed image recording and reproducing apparatus according to claim 1, wherein the reproducing unit comprises a unit for reproducing the plural photographed image data recorded on the memory simultaneously, the judging unit judges whether or not each of the plural photographed

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image data reproduced simultaneously by the reproducing unit is one of the plural photographed image data obtained in the simultaneous photographing operation, and the advising unit comprises a display for displaying data indicating whether or not other photographed image data is prepared, that is obtained by the simultaneous photographing operation and associated with the photographed image data reproduced simultaneously by the reproducing unit (claim limitations have already been discussed and rejected, see claims 1 and 9).

Re claim 12, Ohnishi further discloses the photographed image recording and reproducing apparatus according to claim 1, wherein the judging unit comprises a unit for judging whether or not plural other photographed image data have been obtained by the simultaneous photographing operation, the advising unit comprises a unit for advising that plural other photographed image data obtained by the simultaneous photographing operation have been prepared, when the judging unit determines that plural other photographed image data have been obtained by the simultaneous photographing operation (claim limitations have already been discussed and rejected, see claims 1 and 9).

Re claim 13, Ohnishi further discloses the photographed image recording and reproducing apparatus according to claim 1, wherein the memory records plural photographed image data which are obtained by the simultaneous photographing operation and associated with each other, and the photographed image recording and

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reproducing apparatus further comprising: a reproduction control unit for causing the reproducing unit to read out from the memory and reproduce the photographed image data that is associated with the photographed image data reproduced by the reproducing unit (claim limitations have already been discussed and rejected, see claim 7).

Re claim 14, Ohnishi further discloses the photographed image recording and reproducing apparatus according to claim 13, wherein the memory records the still image data obtained by the still-image photographing operation performed during the moving-image photographing operation and the moving image data obtained by the moving-image photographing operation, both of which are associated with each other, and timing information indicating a time when the still-image photographing operation is performed during the moving-image photographing operation, the reproducing unit reproduces the still-image data recorded on the memory, and the reproduction control unit reads out from the memory the moving image data associated with the still image data to be reproduced by the reproducing unit, and causes the reproducing unit to reproduce the still image data from a position of the still image data corresponding to the time indicated by the timing information recorded on the memory (figs. 2-6, para 0043-58).

Re claim 15, Ohnishi further discloses the photographed image recording and reproducing apparatus according to claim 13, further comprising: a key entering unit (fig.

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1 element 115) for entering a key input (para 0034), and wherein the reproduction control unit causes the reproducing unit to read out from the memory the photographed moving-image data associated with the photographed image data to be reproduced by the reproducing unit, and causes the reproducing unit to reproduce the read out photographed moving-image data, when the key entering unit is manipulated to enter the key input (fig. 4-5, para 0038 and 0060-0063).

Re claim 16, Ohnishi further discloses the photographed image recording and reproducing apparatus according to claim 15, wherein the memory records the still image data obtained by the still-image photographing operation performed during the moving-image photographing operation and the moving image data obtained by the moving-image photographing operation, both of which are associated with each other, and timing information indicating a time when the still-image photographing operation is performed during the moving-image photographing operation, the reproducing unit reproduces the moving-image data recorded on the memory (claim limitations have already been discussed and rejected, see claim 6), and the photographed image recording and reproducing apparatus further comprising: an allowing unit for receiving the key input sent from the key entering unit only at the time indicated by the timing information associated with the moving image data and recorded on the memory, while the moving image data is reproduced by the reproducing unit, and wherein the reproduction control unit causes the reproducing unit to read out from the memory the still image data associated with the moving image data to be reproduced by the

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reproducing unit and causes the reproducing unit to reproduce the read out still image data (the time of when each photograph is placed in the header file of each movie or still and based on figs. 4-6 and 8-10, the movies or stills are listed in chronological order, therefore it is inherent that images can be selected based on the timing information, because the information is in chronological order from first to last, see figs. 4-6 and 8-10).

Re claim 17, Ohnishi further discloses the photographed image recording and reproducing apparatus according to claim 16, wherein advising unit gives a notice only at the time indicated by the timing information associated with the moving image data and recorded on the memory while the moving image data is reproduced by the reproducing unit (claim limitation has already been discussed and rejected, see claim 16).

Re claim 18, the photographed image recording and reproducing apparatus according to claim 1, further comprising an image pick-up unit (fig. 1 element 101); and a recording control unit (fig. 1 elements 111 and 119) for recording on the memory plural photographed image data obtained in the simultaneous photographing operation performed by the image pick-up unit (para 0036-0039).

Re claim 19, Ohnishi further discloses the photographed image recording and reproducing apparatus according to claim 18, wherein the recording control unit

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comprises a unit for recording a predetermined information that is associated with at least one of the plural photographed image data obtained in the simultaneous photographing operation performed by the image pick-up unit (para 0036-0039).

Re claim 20, Ohnishi further discloses the photographed image recording and reproducing apparatus according to claim 18, wherein the recording control unit comprises a unit for recording on the memory plural photographed image data obtained in the simultaneous photographing operation performed by the image pick-up unit and associated with each other (para 0036).

Re claim 21, Ohnishi further discloses the photographed image recording and reproducing apparatus according to claim 18, wherein the recording control unit comprises a unit for recording on the memory still image data obtained in the still-image photographing operation performed by the image pick-up unit during the moving-image photographing operation and moving image data obtained by the moving-image photographing operation (fig. 2, para 0043-0048).

Re claim 22, Ohnishi further discloses the photographed image recording and reproducing apparatus according to claim 21, wherein the recording control unit comprises a unit for recording on the memory timing information for indicating a time when the still image photographing operation is performed during the moving-image photographing operation (fig. 2, para 0043-0046).

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Re claim 23, Ohnishi further discloses a photographed image recording and reproducing apparatus comprising: memory means for recording plural photographed image data; reproducing means for reproducing the photographed image data recorded on the memory means; judging means for judging whether or not the photographed image data reproduced by the reproducing means is one of plural photographed image data which are obtained in a simultaneous photographing operation for obtaining more than one image data simultaneously; and advising means for giving notice that the photographed image data obtained in the simultaneous photographing operation is reproduced, when the judging means determines that one of the plural photographed image data obtained in the simultaneous photographing operation is reproduced by the reproducing means (claim limitations have already been discussed and rejected, see claim 1).

Re claim 24, Ohnishi further discloses a photographed image recording and reproducing method comprising reproducing photographed image data recorded on a memory; judging whether or not the reproduced photographed image data is one of plural photographed image data which are obtained in a simultaneous photographing operation for obtaining more than one image data simultaneously; and giving notice that the photographed image data obtained in the simultaneous photographing operation is reproduced, when it is determined that one of the plural photographed image data

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obtained in the simultaneous photographing operation is reproduced (claim limitations have already been discussed and rejected, see claim 1).

Re claim 25, Ohnishi further discloses a program for a computer used in a photographed image recording and reproducing apparatus, the program comprising instructions that cause the computer to: reproduce photographed image data recorded on a memory; judge whether or not the reproduced photographed image data is one of plural photographed image data which are obtained in a simultaneous photographing operation for obtaining more than one image data simultaneously; and give notice that the photographed image data obtained in the simultaneous photographing operation is reproduced, when the it is determined that one of the plural photographed image data obtained in the simultaneous photographing operation is reproduced (para 0113).


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Morehead whose telephone number is 571-270-1183. The examiner can normally be reached on Monday - Friday (alt) 7:30-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ngoc Yen Vu can be reached on 571-272-7320. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JM



NGOC-YEN VU
SUPERVISORY PATENT EXAMINER